

### **Remarks**

Claim 38 has been amended, and new claims 47-49 have been added. Claims 1-17, 19-26, 28-31, 34-36, 38-39, 41, 43-45, and 47-49 are pending in this application. Review and reconsideration in view of the amendments and remarks below are respectfully requested.

### **35 USC § 103(a)**

Claims 1-7, 8-17, 19-26, 28-31, 34-36, 38-39, 41, and 43-45 are rejected under 35 USC § 103(a). Though various references have been raised by the examiner, the examiner consistently relies on an argument that the sizing of the card pockets and index cards is a matter of design choice, as per *In re Rose*, 105 USPQ 237 (CCPA). The Examiner further contends that Applicants provide no criticality as to the size of the pockets or the cards. Applicants disagree.

*In re Rose* is directed toward a change in size of a given item. Providing two or more items with expressly different sizes relative to one another is not the same as simply changing the size of an item. Accordingly, the current claims do not fall within the scope of *In re Rose*. That is, the situation presented in claims 1, 19, and 29 is simply more complex than that addressed by the *In re Rose* case. Thus, Applicants respectfully submit that the provision of differently sized card pockets to closely receive differently sized index cards therein clearly is not rendered obvious by the cited reference combination, in view of *In re Rose*. Furthermore, Applicants note that the provision of such differently sized card pockets is indeed a critical feature, as set forth in Paragraph [0023], as it permits the receipt of differently sized index cards.

Claims 1-7, 11-17, 19-26, 28-31, 34-36, 39, and 43-45 are rejected under 35 USC § 103(a) as allegedly defining obvious subject matter over U.S. Pat. No. 4,614,450 to Neiman in view of U.S. Pat. No. 5,080,223 to Mitsuyama, and further in view of U.S. Pat. No. 4,345,394 to Sullivan.

Claims 1, 19, and 29 cover a storage sheet having at least “two card pockets positioned thereon, each card pocket being differently sized to closely receive differently sized index cards therein; and where said plurality of index cards includes two differently sized index cards,

wherein each index card is sized to be closely received in a corresponding one of said card pockets.”

The Examiner recognizes that none of the cited references teach or suggest that the storage sheet has at least two card pockets, wherein each card pocket is differently sized to closely receive differently sized index cards therein, as shown in claims 1, 19, and 29. The Examiner instead attempts to rely on an argument that the sizing of the card pockets and index cards is an obvious matter of design choice, as per *In re Rose*, 105 USPQ 237 (CCPA). As explained above *In re Rose* does not apply in this situation. Accordingly, Applicants request that the rejection be dropped and the claims allowed.

Claims 1, 7, 8-10 are rejected as allegedly defining obvious subject matter over U.S. Pat. No. 6,652,178 to Walton in view of Mitsuyama in view of Sullivan and further in view of U.S. Pat. No. 3, 720,304 to Laugherty. In making the rejection, the Examiner once more attempts to rely on an argument that the sizing of the card pockets and index cards is an obvious matter of design choice, as per *In re Rose*, 105 USPQ 237 (CCPA).

As explained above, *In re Rose* does not apply to this situation. Furthermore, to rely on a reference under 35 U.S.C. 103, it must be analogous prior art (MPEP 2141.01(a)). Laugherty is not analogous prior art. Laugherty is in the field of medical supplies rather than office supplies. Also, the problems addressed by Laugherty are not the problems addressed by the current invention. When the flap of Laugherty is released, there is no pocket, simply an open piece of cardboard. Laugherty is not intended to “closely receive” or store any items. Placing items within Laugherty would damage the inked inner surface; Laugherty discloses a bowed wall to prevent even the interior walls themselves from contacting one another. Clearly Laugherty is not meant to receive or store items. Accordingly, Applicants request that the examiner withdraw this rejection and allow the claims.

Claims 1, 19, 29 and 34, 38, 41 are rejected as allegedly defining obvious subject matter over Walton in view of Mitsuyama in further in view of Sullivan. In making the rejection, the Examiner once more contends that the sizing of the card pockets and index cards is an obvious matter of design choice, as per *In re Rose*, 105 USPQ 237 (CCPA). As explained above, *In re Rose* does not apply to this situation.

Applicants have also added the following new claims.

New claim 47 has been added which depends on claim 1, and further specifies that the at least one card pocket includes a mouth and a flap for selectively covering said mouth, and said card pocket includes a cutout in a front panel thereof, along a lower edge of said cutout being a slit or slit edge for receiving at least part of said flap thereunder to retain the flap in a closed position wherein the flap generally covers the mouth. Claim 47 therefore includes certain features of claims 7 and 8, and a cutout. Support for the cutout in a front panel is found in paragraph 18 of the specification.

New claims 48 and 49 incorporating similar features have likewise been added which depend from claims 19 and 29 respectively.

Dependent claim 38 was amended to correct a typographical error.

It is submitted that claims 1, 19, and 29 (and necessarily the claims depending therefrom) are patentable over the cited prior art. Accordingly, it is submitted that the Application is now in a condition for allowance, and a formal notice thereof is respectfully solicited.

**Conclusion**

The Commissioner is hereby authorized to charge any additional fees required, including the fee for an extension of time, or to credit any overpayment to Deposit Account 13-2500. The applicant(s) hereby authorizes the Commissioner under 37 C.F.R. §1.136(a)(3) to treat any paper that is filed in this Application which requires an extension of time as incorporating a request for such an extension.

Respectfully submitted,

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